

Regulation of the
Department of Social Services

Concerning
**Coverage of Services for the Treatment of
Gender Dysphoria**

Regulations adopted after July 1, 2013, become effective upon posting to the website of the Secretary of the State, or at a later date specified within the regulation.

Website posted on
April 2, 2015

Effective Date
April 2, 2015

Approved by the Attorney General on
December 23, 2014

Approved by the Legislative Regulation Review
Committee on
March 24, 2015

Received and filed in the Office of the
Secretary of the State on
March 31, 2015

Electronic copy with agency head certification statement
submitted to the Office of the
Secretary of the State on
March 31, 2015

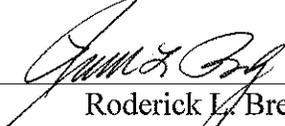
Published in the Connecticut Law Journal on

Electronic Copy Certification Statement

I, **Roderick L. Bremby**, Commissioner of the **Department of Social Services**, in accordance with the provisions of Section 4-172 of the *General Statutes of the State of Connecticut*, do hereby certify:

That the electronic copy of a regulation concerning **Coverage of Services for the Treatment of Gender Dysphoria**, which was approved by the Legislative Regulation Review Committee on **March 24, 2015**, and which shall be submitted electronically for filing to the Secretary of the State by **Patricia McCooley** of this agency on **March 31, 2015**, is a true and accurate copy of the original regulation approved in accordance with Sections 4-169 and 4-170 of the *General Statutes of the State of Connecticut*.

In testimony whereof, I have hereunto set my hand on **March 31, 2015**.



Roderick L. Bremby
Commissioner

IMPORTANT: Use this form (REGS-1) to submit permanent regulations to the Legislative Regulation Review Committee.
For emergency regulations, use form REGS-1-E instead.
For non-substantive technical amendments and repeals proposed without prior notice or hearing as permitted by subsection (g) of CGS 4-168, as amended by PA 13-247 and PA 13-274, use form REGS-1-T instead.

Please read the additional instructions on the back of the last page (Certification Page) before completing this form. Failure to comply with the instructions may cause disapproval of proposed regulations.

State of Connecticut
REGULATION
of the

NAME OF AGENCY:

Department of Social Services

Concerning

SUBJECT MATTER OF REGULATION:

Coverage of Services for the Treatment of Gender Dysphoria

Section 1. Section 17b-262-342 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 17b-262-342. Goods and services not covered

The department shall not pay for the following goods or services or goods or services related to the following:

[(1) Transsexual surgery or for a procedure that is performed as part of the process of preparing an individual for transsexual surgery, such as hormone therapy and electrolysis;]

[(2) immunizations,] (1) Immunizations, biological products and other products available to providers free of charge;

[(3) examinations] (2) Examinations and laboratory tests for preventable diseases that are furnished free of charge;

[(4) information] (3) Information or services provided to a client by a provider electronically or over the telephone;

[(5) cosmetic surgery] (4) Cosmetic surgery;

[(6) an] (5) An office visit for the sole purpose of the client obtaining a prescription where the provider previously determined the need for the prescription;

[(7) cancelled] (6) Cancelled services and appointments not kept;

[(8) services] (7) Services provided in a general hospital if the department determines the admission does not, or retrospectively did not, comply with the department's utilization review requirements in section 17-134d-80 of the Regulations of Connecticut State Agencies;

[(9) infertility] (8) Infertility treatment;

[(10) sterilizations] (9) Sterilizations performed on mentally incompetent individuals or institutionalized individuals;

[(11) more] (10) More than one visit per day to the same provider by a client;

[(12) services] (11) Services to treat obesity other than those described in section 17b-262-341(9) of the Regulations of Connecticut State Agencies; and

[(13) any] (12) Any procedures or services of an unproven, educational, social, research, experimental or cosmetic nature; any diagnostic, therapeutic or treatment services in excess of those deemed medically necessary by the department to treat the client's condition[;] or services not directly related to the client's diagnosis, symptoms or medical history.

Sec. 2. Subsection (c) of section 17b-262-456 of the Regulations of Connecticut State Agencies is amended to read as follows:

Services Not Covered

The department shall not pay for the following psychiatric services:

- (1) [information] Information or services furnished by the provider to the client over the telephone;
- (2) [concurrent] Concurrent services for the same client involving the same services or procedure;
- (3) [office] Office visits to obtain a prescription, the need for which has already been ascertained; and
- (4) [procedures performed in the process of preparing an individual for transsexual surgery; and
- (5) cancelled] Cancelled office visits or appointments not kept.

Sec. 3. Section 17b-262-612 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 17b-262-612. Services Not Covered

The department shall not pay for the following:

- (a) [any] Any procedures or services of an unproven, educational, social, research, experimental[,], or cosmetic nature; for any diagnostic, therapeutic[,], or treatment procedures in excess of those deemed medically necessary [and medically appropriate] by the department to treat the client's condition; or for services not directly related to the client's diagnosis, symptoms[,], or medical history;

- (b) [any] Any examinations, laboratory tests, biological products, immunizations[,] or other products which are furnished free of charge;
- (c) [information] Information or services provided to a client by a provider over the telephone;
- (d) [an] An office visit for the sole purpose of the client obtaining a prescription where the need for the prescription has already been determined;
- (e) [cancelled] Cancelled office visits and appointments not kept;
- (f) [cosmetic] Cosmetic surgery;
- (g) [services] Services provided in an acute care hospital if the department determines the admission does not, or retrospectively did not, fit the department's utilization review requirements pursuant to section 17-134d-80 of the Regulations of Connecticut State Agencies;
- (h) [services] Services provided by the admitting provider in an acute care hospital shall not be made or costs for such services may be recouped if it is determined by the department's utilization review, either prospectively or retrospectively, that the admission did not fulfill the accepted professional criteria for medical necessity, [medical appropriateness,] appropriateness of setting[,] or quality of care;
- (i) [a] A laboratory charge for laboratory services performed by a laboratory outside of the nurse practitioner's office. ~~the~~ The laboratory shall bill the department for services rendered when a nurse practitioner refers a client to a private laboratory; and
- (j) [the] The following routine laboratory tests which shall be included in the fee for an office visit and shall not be billed on the same date of service: urinalysis without microscopy, hemoglobin determination[,] and urine glucose. ; and
- (k) transsexual surgery or for a procedure which is performed as part of the process of preparing an individual for transsexual surgery, such as hormone treatment and electrolysis.]

Sec. 4. Section 150.1.E.II of the Department of Social Services' Medical Services Policy Manual (Inpatient Hospital) is amended to read as follows:

E. Services Covered and Limitations

II. Services Not Covered

- (a) Diagnostic, therapeutic or treatment procedures[,] and inpatient hospital stays for experimental, cosmetic, research, social or educational purposes;
- (b) Any services or items furnished for which the provider does not usually charge;
- (c) The day of discharge or transfer;

- (d) Leave of Absence (LOA) or Pass with Medical Permission;
- (e) Leave of Absence (LOA) or Pass with and without Medical permission when the Title XIX patient is out of the hospital at the time of the census count (12 midnight);
- (f) Emergency room services provided on the same day as inpatient admission;
- (g) Hospital inpatient stay is not covered when the following procedures or services are performed:
 - (1) Tuboplasty and sterilization reversal;
 - (2) Implantation of nuclear-powered pacemaker;
 - (3) Nuclear-powered pacemakers;
 - (4) Inpatient charges related to autopsy;
 - (5) All services or procedures of a plastic or cosmetic nature performed for reconstructive purposes, including but not limited to the following: lipectomy, hair transplant, rhinoplasty, dermabrasion[,] or chemabrasion.
 - [(6) Transsexual surgical procedures for gender change or reassignment or treatment preparatory to transsexual procedures (e.g., hormone therapy and electrolysis).]
 - [(7)] (6) The [Department] department will not pay for a hospital stay, medical services or procedures in the treatment of obesity, including gastric stapling. Although obesity is not itself an illness it may be caused by illnesses such as hypothyroidism, Cushing's disease and hypothalamic lesions. In addition, obesity can aggravate a number of cardiac and respiratory diseases as well as diabetes and hypertension. Services in connection with the treatment of obesity could be covered services when such services are an integral and necessary part of course of treatment for one of these illnesses.
- (h) With the exception of a CT Scan no Title XIX reimbursement will be made to a hospital for medical services provided to an inpatient outside of the per diem daily rate.
- (i) The [Department] department will not pay for drugs included in the Drug Efficiency Study Implementation (DESI) Program that the Food and Drug Administration has proposed to withdraw from the market in a notice of opportunity for hearing. The Drug Efficiency Study Implementation (DESI) Program prohibition against payment includes all generically equivalent drug products and drugs that are less than effective. The [Department] department will notify providers regarding which drugs will not be reimbursed as a result of the DESI program.
- (j) New services in hospitals and services previously unauthorized for payment[, must] shall obtain approval or they are a non-covered service. (Refer to F.III.e. for prior authorization instructions.)
- (k) Admissions and day(s)-of-care that do not meet established requirements for medically necessary acute care inpatient hospital services.
- (l) Claims involving non-covered services:

- (1) Non-covered services only. If the hospital stay was for a non-covered service only, then no charges will be paid by Medicaid.
 - (2) Covered and non-covered services. If the hospital stay is a combination of services, some of which are covered and some of which are not covered by Medicaid, the [Department] department will pay for the covered services only. The non-covered services will not be paid.
- (m) Weekend admittances (Friday[/] or Saturday) or discharges (Sunday[/] or Monday) unless they are medically necessary. Admissions and discharges on these restricted days must have medical necessity recorded by the attending or performing physician in the patient's medical record.

Sec. 5. Section 171.4E.III of the Department of Social Services' Medical Services Policy Manual (Medical Clinics) is amended to read as follows:

III. Services Not Covered

- [a. Transsexual surgery or a procedure which is performed as part of the process of preparing an individual for transsexual surgery, such as hormone therapy and electrolysis]
- [b.] (a) Treatment of obesity;
- [c.] (b) Any immunizations, biological products and other products available to the clinic free of charge from the Connecticut State Department of Public Health;
- [d.] (c) Any examinations and laboratory tests for preventable diseases which are furnished free of charge by the Connecticut State Department of Public Health;
- [e.] (d) Information provided to a patient over the telephone;
- [f.] (e) Cosmetic surgery;
- [g.] (f) A visit for the sole purpose of a patient obtaining a prescription where the need for the prescription has already been determined;
- [h.] (g) Canceled visits or for appointments not kept; and
- [i.] (h) Services which are provided in a skilled nursing facility, intermediate care facility or intermediate care facility for the [mentally retarded] individuals with intellectual disabilities which are deemed routine services for patients in such facilities are not covered. These services include, but are not limited to, occupational therapy services, physical therapy services, audiological services, speech services, respiratory therapy services[,] and primary care services.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

A. The problems, issues or circumstances that the regulation proposes to address.

This regulation repeals current language in the Department of Social Service's regulations and Medical Services Policy Manual that excludes coverage for sexual reassignment surgery and related services and procedures. These coverage exclusions were originally based upon the view that such surgeries and related procedures and services were experimental or unproven in nature. The medical community now recognizes a variety of surgeries and treatments for the diagnoses of "gender identity disorder" or "gender dysphoria".

B. The main provisions of the regulation include:

The regulation repeals coverage exclusions in the Medicaid payment regulations for physician services, nurse practitioner services and psychiatrist services. The regulation also repeals the coverage exclusion in the hospital and clinic medical services policy manuals. The regulation also makes a number of technical changes to the existing regulation, including punctuation corrections and changes to conform to current statutory wording.

C. The legal effects of the regulation, including all ways that the regulation would change existing regulations or laws.

No other laws or regulations will be affected.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

(Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full.

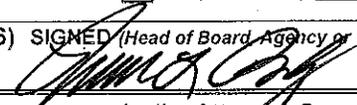
I hereby certify that the above Regulation(s)

- 1) is/are (check all that apply) adopted amended repealed by this agency pursuant to the following authority(ies): (complete all that apply)
 - a. **Connecticut General Statutes section(s) 17b-262.**
 - b. **Public Act Number(s) _____.**
(Provide public act number(s) if the authorizing act has not yet been codified in the Connecticut General Statutes.)

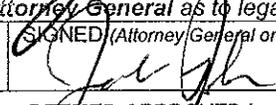
And I further certify

- 2) that Notice of Intent to adopt, amend or repeal said regulation(s) was electronically submitted to the Secretary of the State on September 19, 2014, and posted to the Secretary's regulations website on September 22, 2014; (Insert dates notice was (a) emailed to the Secretary of the State and (b) posted on the Secretary's website, if notice and posting were required by CGS 4-168, as amended by PA 13-247 and PA 13-274.)
- 3) and that a public hearing regarding the proposed regulation(s) was held on _____ or that no public hearing was held; (Insert date(s) of mandatory public hearing(s) held pursuant to CGS 4-168(a), as amended, or other applicable statute, and/or voluntary hearing, or if no hearing was held, check the box for that statement.)
- 4) and that notice of Decision to Take Action on said regulations was electronically submitted to the Secretary of the State on November 26, 2014, and posted to the Secretary's regulations website on December 4, 2014; (Insert dates notice was (a) emailed to the Secretary of the State and (b) posted on the Secretary's website, if notice and posting were required by CGS 4-168, as amended by PA 13-247 and PA 13-274.)
- 5) and that said regulation(s) is/are **EFFECTIVE** (check one, and complete as applicable)
 - When posted online by the Secretary of the State.

OR on (insert date) _____.

6) SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED	DATE
	Commissioner	December 16, 2014

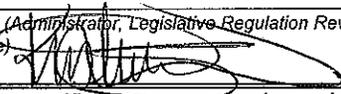
APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended.

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
12/23/14		Associate Attorney General

Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the Attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

- APPROVED in WHOLE or WITH technical corrections deletions substitute pages
- DEEMED APPROVED, pursuant CGS 4-170(c), as amended.
- Rejected without Prejudice Disapproved, pursuant to CGS 4-170(c), as amended.

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
	3-24-15	

In accordance with CGS Section 4-172, as amended by PA 13-247 and PA 13-274, one certified paper copy and one electronic copy with agency head certification statement received on the date(s) specified below.

DATE	SIGNED (Secretary of the State)	BY

(For Secretary of the State Use ONLY)

Date Posted to SOTS Regulations Website:

Date Electronic Copy Forwarded to the Commission on Official Legal Publications:

SOTS file stamp: